

Exhibit A

**(Previously Filed as Exhibit 9 to the Decl. of
Bryon Becker, Dkt. Nos. 581-9 & 597-8)**

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Page 1

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H I G H L Y C O N F I D E N T I A L

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

5

-----x
UNITED STATES, et al.,

6

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Plaintiffs,

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vs.

Case No.

9

1:23-cv-000108

GOOGLE LLC,

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Defendant.

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VIDEOTAPED DEPOSITION OF BENNEASER JOHN
New York, New York
Friday, September 8, 2023
9:17 a.m.

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Reported by:

Jennifer Ocampo-Guzman, CRR, CLR

JOB NO. 6082515

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	Page 2		Page 4
1		1	
2		2 APPEARANCES (Continued):	
3		3	
4		4 ORRICK HERRINGTON & SUTCLIFFE LLP	
5		5 Attorneys for nonparty Microsoft and the	
6		6 Deponent	
7		7 1152 15th Street, N.W.	
8		8 Washington, D.C. 20005-1706	
9	September 8, 2023	9 BY: EILEEN COLE, ESQ.	
10	9:17 a.m.	10 ALLEN DAVIS, ESQ., (via Zoom)	
11		11	
12		12 ALSO PRESENT:	
13	HIGHLY CONFIDENTIAL	13 CARLOS RIVERA, Videographer	
14	Videotaped Deposition of	14	
15	BENNEASER JOHN, held at the offices of	15	
16	Paul, Weiss, Rifkind, Wharton &	16	
17	Garrison LLP, 1285 Avenue of the	17	
18	Americas, New York, New York, pursuant	18	
19	to subpoena, before Jennifer	19	
20	Ocampo-Guzman, a Certified Realtime	20	
21	Shorthand Reporter and Notary Public of	21	
22	the State of New York.	22	
23		23	
24		24	
25		25	
	Page 3		Page 5
1		1 HIGHLY CONFIDENTIAL	
2	APPEARANCES:	2 THE VIDEOGRAPHER: Good morning,	
3		3 We are going on the record at 9:17 a.m.	
4	UNITED STATES DEPARTMENT OF JUSTICE	4 on September 8, 2023. Please note that	
5	Attorneys for Plaintiff United States	5 the microphones are sensitive and may	
6	325 7th Street, Suite 300	6 pick up whispering and minor	
7	Washington, DC 20004	7 conversations; and please mute your	
8	BY: JEFFREY VERNON, ESQ.	8 phones at this time. Audio and video	
9	KAITLYN BARRY, ESQ.	9 recording will continue to take place	
10	JEFF QUI, ESQ., (via Zoom)	10 unless all parties agree to go off the	
11		11 record.	
12	PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP	12 This is media unit number 1 of the	
13	Attorneys for Defendant Google LLC	13 video-recorded deposition of Benneaser	
14	1285 Avenue of the Americas	14 John taken by counsel for defendant, in	
15	New York, New York 10019	15 the matter of the United States of	
16	BY: KAREN DUNN, ESQ.	16 America versus Google LLC, filed in the	
17	ERICA SPEVACK, ESQ.	17 United States District Court, for the	
18	WILLIAM ISAACSON, ESQ. (p.m. session)	18 Eastern District of Virginia, case	
19	JULIA WOOD, ESQ., (via Zoom)	19 number 1:23-cv-000108-LMB-JFA. The	
20		20 location of this deposition is 1285	
21	AXINN, VELTROP & HARKRIDER LLP	21 Avenue of the Americas, New York, New	
22	Attorneys for Defendant Google LLC	22 York. My name is Carlos Rivera	
23	55 Second Street	23 representing Veritext and I'm the	
24	San Francisco, California 94105	24 videographer. The court reporter is	
25	BY: ISABELLA SOLORZANO, ESQ.	25 Jennifer Ocampo-Guzman also representing	

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<p style="text-align: right;">Page 282</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 answer was about demand. 3 Q. Right. But before you spoke about 4 demand and we will get to demand, you said 5 Xandr didn't have first-party properties. Do 6 you remember saying that? 7 A. Correct. 8 Q. Okay. Is it the case that 9 Microsoft has first-party properties? 10 A. That is correct. 11 Q. And Microsoft has now acquired 12 Xandr, right? 13 A. That is correct. 14 Q. Now, you did also mentioned 15 availability of demand, and I would ask you 16 just to look at the document in front of you 17 dated November 2022. 18 A. Uh-huh, yes. 19 Q. And if you looked at the left-hand 20 side of the page, this is a Xandr document, 21 after the acquisition by Microsoft and it 22 refers to "Unique Demand." Do you see that? 23 A. That is correct. 24 Q. And if you look at "Unique Demand" 25 then there are four categories and the four</p>	<p style="text-align: right;">Page 284</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 SSPs wide array of publisher inventory, 3 right? 4 A. I do not. 5 Q. And you don't dispute that when the 6 document says, Microsoft Audience Network 7 demand originated from Bing search and 8 Microsoft audience -- Microsoft Audience 9 Network audience buys, that it's describing 10 this as unique demand to which Xandr's 11 publishers will have access following the 12 Microsoft/Xandr acquisition? 13 A. That is correct. 14 Q. Okay. So you're bringing the 15 demand that Microsoft has access to as a 16 result of its search advertising to Xandr's 17 publishers through Xandr Monetize, correct? 18 A. Xandr publishers are one of the 19 publishers. MSAN is and will continue to 20 provide the demand to outside of Monetize as 21 well. 22 Q. Right. And while we're on the 23 topic of demand, you spoke earlier about how 24 sophisticated publishers on the supply side 25 are partnering with Xandr and so you</p>
<p style="text-align: right;">Page 283</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 categories are projects that Microsoft and 3 Xandr are working on. Do you see that? 4 A. That is correct. 5 Q. And the first project is called 6 Microsoft Audience Network bidder 7 integration. Do you see that? 8 A. Yes, I do. 9 Q. And in the "Primary Audience and 10 Benefit" column, listing the primary audience 11 and benefits of the Microsoft Audience 12 Network bidder integration, it says, Monetize 13 SSP sellers will now get access to Microsoft 14 Audience Network demand originating from Bing 15 Search and Microsoft Audience Network 16 audience buys. Do you see that? 17 A. Yes, I do. 18 Q. All right. And then it says, 19 Microsoft Audience Network "buyers will be 20 able to access Monetize SSP's wide array of 21 publisher inventory." 22 Do you see that? 23 A. Yes, I do. 24 Q. And you don't dispute that this 25 Microsoft Xandr document refers to Monetize</p>	<p style="text-align: right;">Page 285</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 mentioned Axel Springer, right? 3 A. That is correct. 4 Q. News Corp is one, right? 5 A. News Corp is not an Axel customer. 6 They're an SSP, but they're primarily Google 7 customer. 8 Q. Right, but they're a publisher that 9 works with Xandr? 10 A. As an SSP. 11 Q. As an SSP, Hulu? 12 A. Hulu did not work with us. 13 Q. How about CNN? 14 A. CNN as an SSP, not as an ad server 15 customer. 16 Q. How about Warner Media? 17 A. Warner Media did not use as an ad 18 server customer. 19 Q. SSP? 20 A. SSP, that's correct. 21 Q. And Netflix, we've already talked 22 about Netflix? 23 A. Correct. 24 Q. Now, if you look down on the 25 left-hand side of the page, also in the</p>

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<p style="text-align: right;">Page 286</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 category of "Unique Demand" the fourth 3 project it refers to, it is "Microsoft 4 audience" -- sorry -- 5 MS. DUNN: Strike that. 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED] 25 [REDACTED]</p>	<p style="text-align: right;">Page 288</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 that? 3 MR. VERNON: About Outlook? 4 Objection to form mischaracterizes and 5 beyond the scope. 6 MS. DUNN: I'll rephrase. 7 Q. Do you recall being asked some 8 questions by government counsel about 9 Microsoft's view of the world in 2007? 10 A. Today? 11 Q. No, he asked you questions about 12 2007, when he was talking about -- 13 A. That's correct, during the talk, 14 yeah. 15 Q. This is the Microsoft website 16 today, as it appears today, and this is the 17 web page that talks about Xandr and premium 18 programmatic advertising. Do you see that in 19 front of you? If you look at the URL at the 20 top it says -- 21 A. The URL, correct. 22 Q. -- "Xandr programmatic premium 23 advertising"? 24 A. That's correct. 25 Q. And Microsoft, this is on</p>
<p style="text-align: right;">Page 287</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 I would like you to look now at 18 what we will mark as Exhibit 18. 19 (MSFT Exhibit 18, Document 20 entitled, "Reach audiences across 21 screens with premium advertising," 22 marked for identification, this date.) 23 Q. Now, you were asked by the 24 government counsel numerous questions about 25 Microsoft's Outlook in 2007. Do you recall</p>	<p style="text-align: right;">Page 289</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 Microsoft's website and it's telling 3 advertisers and publishers that they can help 4 solve your buyers and sellers greatest 5 advertising challenges with Xandr's platforms 6 that enable you to unlock the full value of 7 running programmatic advertising campaigns 8 across screens and tapping into engaged 9 audiences. And so you don't disagree that 10 this is what Microsoft is telling people 11 today, do you? 12 A. I don't disagree. 13 Q. And if you look down, it refers to 14 the Xandr's end-to-end platforms? 15 A. That is correct. 16 Q. And would you do agree that having 17 an end-to-end platform helps prevent fraud? 18 MR. VERNON: Objection, leading, 19 also scope. 20 A. Yes. 21 Q. If you look at page 2 of the 22 printout from Microsoft's website, it says 23 that premium advertising is available for a 24 variety of formats through Microsoft. Do you 25 see that?</p>

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<p style="text-align: right;">Page 290</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 A. Yes, that is correct. 3 Q. And it lists "connected TV, display 4 and native." Do you see that? 5 A. Yes, I do. 6 Q. And it doesn't say those are, you 7 know, aimed at different people, it just 8 talks about all three of those there, right? 9 MR. VERNON: Objection, vague. 10 A. Can you clarify? What do you mean 11 by that? 12 Q. Microsoft is telling people through 13 its website that you can reach your desired 14 audience with one of the world's largest 15 marketplaces; it's talking about Xandr, 16 right? 17 A. Yes, that is correct. 18 Q. And it specifically mentions that 19 that goes from connected TV to display to 20 native. You see that? 21 A. Right. You can reach the audience 22 through one of those marketplaces, correct. 23 Q. Right. 24 And it specifically advertises, if 25 you look down, there is a picture of the TV</p>	<p style="text-align: right;">Page 292</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 says "across digital formats," what formats 3 it's talking about? 4 A. It's display, audio, video, CTV. 5 Q. All right. I would like to show 6 you, sir, our Tab 53. 7 (MSFT Exhibit 19, Document 8 entitled, "Xandr in Microsoft Product 9 Synergy Slides - Phase 2 - For buyers - 10 Talk Track," Bates Nos. 11 MSFT-LIT-0000004160 through 12 MSFT-LIT-0000004163, marked for 13 identification, this date.) 14 MS. SPEVACK: Exhibits 19. 15 MS. DUNN: Exhibit 19. 16 Q. This is a document -- 17 MR. VERNON: Can you wait until we 18 get copies? 19 MS. COLE: And the first page? 20 Metadata? 21 MS. DUNN: Yes, the first page is 22 metadata. This is a document produced 23 by Microsoft to Google and the date is 24 November 9, 2022, on this document. It 25 follows the Microsoft/Xandr acquisition</p>
<p style="text-align: right;">Page 291</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 show "Stranger Things," and you can see in 3 the top left-hand corner that that's being 4 shown on Netflix. Do you see that? 5 A. Yes. 6 Q. And today Microsoft is touting, you 7 can see on page 3, its exclusive technology 8 and sales partnership with Netflix. Do you 9 see that? 10 A. Yes, I do. 11 Q. It says, "all CTV advertising 12 served on Netflix is exclusively available 13 through the Microsoft advertising platform." 14 Do you see that? 15 A. Yes, I do. 16 Q. And then if you go to the part at 17 the bottom of the "Advertiser Platform," 18 today what Microsoft is telling people who 19 may be interested in its products that it has 20 a robust data marketplace with access to 21 premium supply across digital formats and 22 flexible ways to transact. 23 Do you see that? 24 A. Yes, I do. 25 Q. And do you happen to know when it</p>	<p style="text-align: right;">Page 293</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 and it is a talk track for buyers meant 3 to accompany slides. 4 Q. Do you have any reason to doubt 5 that this talk track for buyers was prepared 6 in the ordinary course of business by 7 Microsoft employees? 8 A. I don't know. 9 Q. All right. One of the things that 10 you talked about in your testimony with the 11 government attorney was demand, and so when 12 we're talking about demand, just to be clear, 13 you mean advertisers are the demand side, 14 right? 15 A. That is correct. 16 Q. And the point of the advertisers in 17 the demand is so that people can be reached 18 and see the ads, right? 19 MR. VERNON: Objection, leading. 20 A. That is one unique talk point, 21 audience reach, yes. 22 Q. Right. 23 And if you look at what it says in 24 the buyer talk track under slide 4, it talks 25 about the "Microsoft Advertising</p>

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<p style="text-align: right;">Page 294</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 Marketplaces." Do you see that? 3 A. Yes, uh-huh, yes. 4 MR. VERNON: Show us where you are. 5 MS. DUNN: I'm on -- 6 MR. VERNON: Never mind. I'm good. 7 Q. And it describes Microsoft 8 advertising ecosystem as expansive. Do you 9 see that? 10 A. Which paragraph? The second one? 11 Q. It's on slide 4, "Microsoft 12 Advertising Marketplaces" and it says, 13 "Microsoft advertising's expansive 14 ecosystem." Do you see that? 15 A. Yes, I do. 16 Q. And Microsoft's expansive ecosystem 17 allows you access to over one billion people. 18 Do you see where it says that? 19 A. Yes, I do. 20 Q. Do you happen to know that a 21 billion people is a seventh of the population 22 on earth? 23 A. Yes, I do. 24 MS. COLE: That's beyond the scope. 25 Q. Now, do you have any reason to</p>	<p style="text-align: right;">Page 296</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 And so when Microsoft and Xandr are 3 talking to the buyers about buying across 4 channels and formats, what they're talking 5 about is, at least, CTV, gaming, shopper 6 marketing, native and display, right? 7 MR. VERNON: Objection, 8 mischaracterizes native, display -- 9 Q. It that what it says? 10 A. It says advertisers were able to 11 reach across different audiences and 12 different formats. 13 Q. Right. And it's telling buyers, 14 advertisers that they can reach people 15 through CTV, gaming, shopper marketing and 16 native all as a result of Microsoft and 17 Xandr, right? 18 A. That is correct. 19 Q. Okay. All right. 20 MS. DUNN: Okay. I would like to 21 show you, if we can hand the witnesses 22 tabs 26, 27 and 28. 23 MS. SPEVACK: It will be 24 Exhibit 20. 25 (MSFT Exhibit 20, Natively produced</p>
<p style="text-align: right;">Page 295</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 doubt that this is true? 3 A. I do not. 4 Q. Now, it then says, "Here's a closer 5 look at the inventory available." And it 6 mentions Microsoft search network, 7 Microsoft's owned and operated sites that we 8 went through, Microsoft Audience Network, 9 which includes MSN, Outlook and Edge and it 10 mentions PromoteIQ which is the retail outfit 11 that we talked about. Do you see that? 12 A. Yes, I do. 13 Q. And Microsoft also wants buyers to 14 know that Xandr is one of the largest global 15 programmatic marketplaces. Do you see that? 16 A. Yes, I do. 17 Q. Now if you look at slide 5 in the 18 buyers talk track. It says, "We're excited 19 to be working as part of Microsoft to create 20 new valuable opportunities for advertisers. 21 With Microsoft, we're gaining significant 22 momentum across CTV, gaming shopper marketing 23 and native - further strengthening Xandr and 24 Invest DSP as your strategic partner to buy 25 across channels and format."</p>	<p style="text-align: right;">Page 297</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 document, PowerPoint presentation 3 entitled, "Welcome to Microsoft 4 Advertising," Bates Nos. 5 MSFT-LIT000002147, marked for 6 identification, this date.) 7 MS. SPEVACK: 21. 8 (MSFT Exhibit 21, Document, Bates 9 Nos. MSFT-LIT0000033249 through 10 MSFT-LIT0000033254, marked for 11 identification, this date.) 12 Q. I'm just going to ask you if 13 they're documents prepared in the ordinary 14 course of business. And I'm not going to ask 15 you any questions about them. 16 MS. SPEVACK: And 22. 17 (MSFT Exhibit 22, Natively produced 18 document, PowerPoint presentation 19 entitled, "Xandr Ad Server/Supplement," 20 Bates No. MSFT-LIT0000028835, pages 1 21 through 16, marked for identification, 22 this date.) 23 (Discussion off the record.) 24 Q. So those three documents that I 25 just handed to you --</p>

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<p style="text-align: right;">Page 298</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 MR. VERNON: Do you have 20 and 21? 3 MS. DUNN: I'm not asking any 4 questions about them. But, yeah, 5 they're here. Okay. 6 Q. So my question about each of those 7 three is the same, whether you recognize 8 those as documents prepared by your company 9 employees in the ordinary course of business? 10 A. That is correct. 11 Q. They have all been produced to 12 Google in this litigation? 13 A. That is correct. 14 Q. Okay. 15 MS. DUNN: Let's show the witness 16 our Tab 23. 17 MS. SPEVACK: This will be 18 Exhibit 23. 19 (MSFT Exhibit 23, Natively produced 20 document entitled, "Advertising at 21 Microsoft Before June 7th, 2022," Bates 22 No. MSFT-LIT-0000030367, pages 1 through 23 14, marked for identification, this 24 date.) 25 Q. Now, this is a document where the</p>	<p style="text-align: right;">Page 300</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 Microsoft's "Meta DSP," and it describes Meta 3 DSP as a "fully integrated Omnichannel DSP 4 that provides an easy way to run omnichannel 5 campaigns using premium inventory and 6 exclusive data." Do you see that? 7 A. That is correct. 8 Q. What is an omnichannel campaign? 9 A. An omnichannel campaign is a buyer 10 can buy multiple formats through one DSP. 11 Q. And why do you believe that an 12 advertiser or buyer would want to run an 13 omnichannel campaign? 14 A. We believe that's where the 15 industry is going and currently, I think I 16 said earlier, the agencies and buyers still 17 operate different teams by different formats. 18 Q. And in your opinion, do advertisers 19 care about reaching their target users? 20 A. Advertiser care about the reaching 21 target users and they care about getting 22 their return on their ad dollars and they 23 also care about how and who reaching the 24 budget, so each format they also operate 25 their own groups, and that's how they manage</p>
<p style="text-align: right;">Page 299</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 metadata suggests that you prepared it. 3 A. That is correct. 4 Q. Okay. And is it, was it prepared 5 in the ordinary course of business? 6 A. That is correct. 7 Q. Can you turn to page 10 of 14? Now 8 first I will ask you, what was the purpose of 9 preparing this document? 10 A. It's an internal discussion to -- 11 let me see, two more slides -- just to orient 12 myself to come up with plan and next steps. 13 It's more like my stock meeting I believe. 14 Q. So this is -- 15 A. So it says, thinking, this was 16 thinking. It's more like my thought 17 processes I just put together on these 18 slides. If you noticed the last few slides 19 are not properly formatted or beautified. 20 Q. So you said this is about plan and 21 next steps. Did you say that? 22 A. That is correct. 23 Q. So if you look at slide 10 of 14? 24 A. 10 of 14, yes. 25 Q. The title of the slide is:</p>	<p style="text-align: right;">Page 301</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 the budgets also. 3 Q. And are you aware whether 4 advertisers ever shift money across channels 5 if they're not getting a return that they 6 like? 7 MR. VERNON: Objection to form, 8 vague, leading. 9 A. That's what I was hoping the 10 industry would move, but it's very hard. 11 Q. And then in your slide that talks 12 about the omnichannel campaign, it lists in 13 red what I take to be the various channels; 14 is that correct? 15 A. Formats, channels, that's correct. 16 Q. And so what are the omni channels, 17 what are -- 18 MS. DUNN: Strike that. 19 Q. The channels that you've listed as 20 part of Microsoft's meta DSP, which would be 21 a fully integrated omnichannel DSP, includes 22 search display, native, video, CTV, DOOH, 23 which is -- 24 A. Digital out of home. 25 Q. -- digital out of home -- ATV, what</p>

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<p style="text-align: right;">Page 302</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 is that? Is that analog TV perhaps? 3 A. Probably. We call it like linear 4 TV. I don't know why it's called ATV here. 5 Q. -- gaming, audio and social. 6 Now let me ask this question, which 7 is: You said earlier that display is on a 8 decline. Are any of these various channels 9 on a growth trajectory? 10 MR. VERNON: Objection to form, 11 mischaracterizes and vague. 12 A. Video and CTV are in the growth. 13 Q. And is gaming also a growth area? 14 A. I don't have specific numbers to 15 believe that. 16 Q. But based on your experience, would 17 you think so? 18 A. They're not running a lot on 19 gaming, so I don't have data to provide you 20 on. 21 Q. And what about social, is that a 22 growth area? 23 MR. VERNON: Objection, form. 24 A. I don't have a direct information 25 about social.</p>	<p style="text-align: right;">Page 304</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 right-hand side of your slide, that talks 3 about the Meta DSP? 4 A. That's right. 5 Q. You list various SSP programmers? 6 A. That is correct. 7 Q. And there is various kinds of 8 inventory here in your, in the slide that you 9 envision. There is social media. There is, 10 I see Meta. I see Instagram. There is 11 streaming. I see Roku and Netflix and Hulu. 12 There is gaming. There is Spotify and there 13 is a search. 14 Do you see all of those programs on 15 the right? 16 A. That is correct. 17 Q. And so does that mean that part of 18 Microsoft Meta DSP would take advantage of 19 supply that comes from all of those types of 20 inventory? 21 MR. VERNON: Objection, vague, 22 compound. 23 A. To be clear, this is now not direct 24 integration. [REDACTED] 25 [REDACTED]</p>
<p style="text-align: right;">Page 303</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 Q. Okay. And then if you look on the 3 right-hand side under SSP, programmers and 4 clubs, you see that -- 5 A. Page number, please. 6 Q. I'm sorry, on the same slide. 7 A. Same slide, yeah. 8 MS. DUNN: And actually strike 9 that. 10 Q. One last question on the last 11 piece. If an advertiser wasn't seeing a 12 return on investment on display might they 13 shift advertising dollars to CTV or something 14 else? 15 MR. VERNON: Objection to form, 16 vague and leading. 17 A. As I said, I haven't seen that 18 happen based on the RFPs that we received. 19 Q. But you agree it's possible? 20 A. It is. 21 MR. VERNON: Objection to form. 22 A. It's possible they make the 23 decisions, but I don't have a direct data 24 point on that. 25 Q. Okay. Now, if you look on the</p>	<p style="text-align: right;">Page 305</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 MS. DUNN: Can we go off the 17 record? 18 THE VIDEOGRAPHER: The time is 19 6:01 p.m. and we're off the record. 20 (A brief recess was taken.) 21 THE VIDEOGRAPHER: The time is 22 6:04 p.m. and we are back on the record. 23 MS. DUNN: Mr. John, I'm handing 24 what we marked as Microsoft 24. 25 (MSFT Exhibit 24, Document</p>

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<p style="text-align: right;">Page 306</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 entitled, "Microsoft Advertising 3 Ecosystem," marked for identification, 4 this date.) 5 Q. This is just a computerized version 6 of the schematic that you marked up earlier, 7 and I just want to give you a one more 8 opportunity to -- I think we got everything 9 right that you said, but if there is anything 10 that we got wrong, please let us know. And 11 otherwise, we will be done. 12 MS. COLE: Take a minute and review 13 it and make sure that it's accurate and 14 has whatever limitations in it you want. 15 Take the time and review it. 16 A. Can I clarify a couple of things? 17 Q. Sure. 18 A. So when I put an Microsoft 19 advertising line to here, Bing is the only 20 one, DuckDuckGo, AOL and Yahoo run 21 separately. We provides the APIs and the 22 mechanisms, so users don't X one thing, but 23 just, you know, since you put that box here, 24 I just wanted to clarify that. 25 The MSX, display and native, just</p>	<p style="text-align: right;">Page 308</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 Q. We just want you to verify those 3 are the documents that you brought with you 4 to this deposition. 5 A. This is something that I couldn't 6 read. This looks like it. 7 Q. Just make sure they're your 8 authentic cheat sheets. 9 MS. COLE: And they're all still 10 designated "highly confidential." 11 MS. DUNN: Understood. 12 A. That is correct. 13 MS. DUNN: Thank you, very much, 14 sir. 15 THE WITNESS: Thank you. 16 MR. VERNON: So we do have some 17 questions. I don't believe it will be 18 the full hour we have left. I can 19 actually go now or we can take a short 20 break. 21 THE WITNESS: It's up to you. I 22 can go. 23 EXAMINATION BY 24 MR. VERNON: 25 Q. Earlier counsel for Google asked</p>
<p style="text-align: right;">Page 307</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 one change there. 3 Yes. 4 Q. Just one quick question, can you 5 access Bing and DuckDuckGo and AOL and Yahoo 6 through Microsoft Advertising? 7 A. AOL and DuckDuckGo and Yahoo, they 8 leverage our search network. Right. From an 9 advertising buying perspective, APR sending 10 advertising dollars, I don't recall what I 11 think about that. Sorry. 12 Q. Do we need to do anything to the 13 schematic, or are you okay? 14 A. You can leave this now. 15 Q. Great. 16 And then that's an exhibit. You 17 can keep that. And then, sorry, one last 18 thing is, we've marked your cheat sheets as 19 Microsoft 25, 26 and 27. 20 (MSFT Exhibit 25, Cheat sheet, 21 marked for identification, this date.) 22 (MSFT Exhibit 26, Cheat sheet, 23 marked for identification, this date.) 24 (MSFT Exhibit 27, Cheat sheet, 25 marked for identification, this date.)</p>	<p style="text-align: right;">Page 309</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 you some questions about a document 3 discussing unique demand for Microsoft. Do 4 you remember that? 5 A. That is correct, yes. 6 Q. For display, which company has more 7 unique demand, Google or Microsoft? 8 A. Google. 9 MS. DUNN: Objection to form. 10 Q. Why do you say that? 11 A. Because the display advertising 12 that runs across all the publishers from a 13 small scale and large scale, Google has the 14 largest supply. So advertiser dollars goes 15 from -- advertisers dollars comes through 16 Google for display. 17 Q. Which company has the most unique 18 demand for display? 19 A. Google. 20 Q. The unique demand that Microsoft 21 and its companies have, it's available 22 through is Xandr's SSP; is that right? 23 A. That is correct. 24 Q. Does Xandr's SSP bid on a realtime 25 basis for a publisher, even when that</p>

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<p style="text-align: right;">Page 310</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 publisher does not use Xandr's publisher ad 3 server? 4 A. Of course, yes. 5 Q. Why? 6 A. Because by the start of the, open 7 the ecosystem, that when a demand that comes 8 through Microsoft and the demand goes through 9 monetize, you would be able to access through 10 the third-party websites apps, through an 11 SSP. 12 Q. Does Google AdX do the same thing? 13 A. Google AdX make the demand 14 available, but not all demand is available 15 through that, the large demand goes through 16 the direct customers, those are part of AdX, 17 just access to customers. 18 Q. Does Google's AdX bid on a realtime 19 basis -- 20 MR. VERNON: Let me ask a different 21 question. 22 Q. How does Xandr's practice of making 23 the demand available on Xandr's SSP 24 different, if at all, from Google's AdX's 25 practice of making the demand on Google AdX</p>	<p style="text-align: right;">Page 312</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 technology and charge a fee. If you are 3 leveraging an ad server, you would pay a fee 4 and you would leverage the technology. From 5 a demand source, they can be bring their own 6 demand through managed IO. Like a direct 7 sale. We bring the demand from what is 8 available, third-party demand available, so 9 we have more providing a technology solution 10 for them, so we treat those things separate. 11 Q. Google's counsel asked you some 12 questions about Microsoft's position in 13 display. Do you remember that? 14 MS. DUNN: Objection to scope. 15 A. Microsoft questions specifically on 16 display? 17 Q. Right. 18 A. Can you clarify what is the 19 question, so I will be able to confirm? 20 MR. VERNON: I'll be honest. My 21 memory is not perfect at this late hour. 22 Q. I recall counsel asking you 23 questions about Microsoft's position in 24 display. Do you remember that, or no? 25 A. Positioning about -- in my</p>
<p style="text-align: right;">Page 311</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 available to publishers that don't use 3 Google's publisher ad server? 4 A. So Xandr Monetize gets a demand to 5 Invest, through Microsoft, with this 6 integration, and it was getting before too, 7 and third-party DSPs, like Google. So we get 8 the demand. When they get the demand, 9 through monetize exchange, any publishers, 10 those who are winning, will get the demand, 11 right through our exchange. And if your 12 question, now your question is specifically 13 about the unique first-party demand, which is 14 Xandr and Microsoft, it runs the same option 15 that we run for any third-party. So from a 16 greeting option perspective, third-party 17 vendors and first-party vendors go through 18 the same process. 19 Q. Does Xandr tell publishers that if 20 they want access to Xandr's unique demand, 21 they must use Xandr's publisher ad server? 22 A. No, we do not. 23 Q. And why? 24 A. So we treat those two things 25 separately. We provide access to specific</p>	<p style="text-align: right;">Page 313</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 understanding, it's not Microsoft's 3 positioning of the market, whether it's 4 demand goes only to display or omnichannel, 5 how the demand gets diverted against multiple 6 formats. 7 Q. Let me ask you this: For display 8 in general, which company has a larger 9 position, Google or Microsoft? 10 MS. DUNN: Objection to form. 11 A. Google. 12 Q. And how big is the difference? 13 MS. DUNN: Objection to form. He's 14 not a competition expert. 15 A. Based on the demand that we see 16 from Google, as well as the publisher market 17 share that Google has, Microsoft and -- I 18 believe it's Google has the largest. 19 Q. Let me show you one document. 20 MR. VERNON: What number are we at? 21 MS. SPEVACK: This one is going to 22 be 28. 23 (MSFT Exhibit 28, PowerPoint 24 presentation entitled, "2019 Publisher 25 Tools and Direct Supply," Bates Nos.</p>

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<p style="text-align: right;">Page 318</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 evolves, multiple players started picking 3 compared to the display advertising. 4 Q. Okay. 5 MR. VERNON: Could we go off the 6 record. Just give me two minutes. I 7 just want to make sure I asked all the 8 questions. 9 THE VIDEOGRAPHER: The time is 10 6:19 p.m. and we're off the record. 11 (A brief recess was taken.) 12 THE VIDEOGRAPHER: The time is 13 6:21 p.m. and we're back on the record. 14 Q. Do you have that document in front 15 of you that we were just looking at? 16 A. Yes, I do. 17 Q. And the one that refers to the 18 "marketplace lock-in in Display." Do you see 19 that? 20 A. Yes, I do. 21 Q. Earlier counsel asked you some 22 questions about meetings between the DOJ and 23 Microsoft with Xandr. Do you remember that? 24 A. Yes, I do. 25 Q. Did Microsoft or Xandr create this</p>	<p style="text-align: right;">Page 320</p> <p>1 2 STATE OF _____ 3 _____) :ss 4 COUNTY OF _____ 5 6 7 I, BENNEASER JOHN, the witness 8 herein, having read the foregoing 9 testimony of the pages of this 10 deposition, do hereby certify it to be a 11 true and correct transcript, subject to 12 the corrections, if any, shown on the 13 attached page. 14 15 16 BENNEASER JOHN 17 18 Sworn and subscribed to before 19 me, this _____ day of 20 _____, 2023. 21 22 Notary Public 23 24 25</p>
<p style="text-align: right;">Page 319</p> <p>1 JOHN - HIGHLY CONFIDENTIAL 2 document that talks about marketplace lock-in 3 for display for purposes of showing it to the 4 DOJ? 5 A. Absolutely not. 6 MR. VERNON: Okay. With that, and 7 unless counsel for Google has further 8 questions, I'm done with my questions, 9 and I thank you and the court reporter 10 and the videographer and to everyone for 11 taking the time to sit here on a Friday. 12 THE WITNESS: Thank you, all. 13 MS. DUNN: Thank you very much. We 14 appreciate you very, very much. 15 THE VIDEOGRAPHER: We're going off 16 the record at 6:22 p.m., and this 17 concludes today's testimony given by Ben 18 John. The total number of media units 19 was five, and they will be retained by 20 Veritext. 21 (Time noted: 6:22 p.m.) 22 23 24 25</p>	<p style="text-align: right;">Page 321</p> <p>1 2 C E R T I F I C A T E 3 STATE OF NEW YORK) 4 : ss. 5 COUNTY OF NEW YORK) 6 I, Jennifer Ocampo-Guzman, a 7 Certified Realtime Shorthand Reporter and 8 Notary Public within and for the State of New 9 York, do hereby certify: 10 That BENNEASER JOHN, the witness 11 whose deposition is hereinbefore set forth, 12 was duly sworn, and that such deposition is 13 a true record of the testimony given by the 14 witness. 15 I further certify that I am not 16 related to any of the parties to this action 17 by blood or marriage, and that I am in no 18 way interested in the outcome of this 19 matter. 20 IN WITNESS WHEREOF, I have 21 hereunto set my hand this 12th day of September 2023. 22 23 24 <i>J. Ocampo-Guzman</i> JENNIFER OCAMPO-GUZMAN, CRR, CLR 25</p>